

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PERRY DEMON PARRISH)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 2:16-cv-292-WHA
)	(WO)
CARTER F. DAVENPORT, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

Before the court is Petitioner Perry Demon Parrish's pro se notice of appeal, which the court is treating as a motion to appeal in forma pauperis (Doc. # 39), and Petitioner's motion for certificate of appealability. (Doc. # 39-1).

28 U.S.C. § 1915(a) provides that "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, the court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit," *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam). In addition, a certificate of appealability is necessary before a petitioner may pursue an appeal in a habeas corpus proceeding. *See* 28 U.S.C. § 2253(c). To mandate the issuance of a certificate of appealability, a petitioner must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see also Barefoot v. Estelle*, 463 U.S. 880, 893 (1983).

Applying these standards, the court is of the opinion that Petitioner's appeal is without a legal basis and, accordingly, is frivolous and not taken in good faith. *See Rudolph v. Allen*, 666 F.2d 519, 520 (11th Cir. 1982) (per curiam). Furthermore, for the reasons given in the

recommendation of the Magistrate Judge (Doc. # 35), and the order of the court on January 9, 2019, (Doc. # 37) the court finds that the petitioner has failed to make a “substantial showing of the denial of a constitutional right.”

Accordingly, it is ORDERED that Petitioner’s motion for leave to appeal *in forma pauperis* (Doc. # 39) and motion for certificate of appealability (Doc. # 39-1) are DENIED.

DONE this 20th day of February, 2019.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE